

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

GENERAL MOTORS CORPORATION,)
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Plaintiff,)
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)
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v.)
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)
)
CHEVY DUTY, INC.,)
)
)
Defendant.)

HONORABLE AVERN COHN
MAGISTRATE JUDGE STEPHEN PEPE
CIVIL ACTION NO. 04-70312

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AMENDED FINAL JUDGMENT AND PERMANENT INJUNCTION

Plaintiff General Motors Corporation (“GM”) brought this action against Defendant Chevy Duty, Inc. (“Defendant” or “Chevy Duty”) alleging claims for cyberpiracy, trademark dilution, trademark infringement, counterfeiting, and false designation of origin under Sections 43(d), 43(c), 32(1), and 43(a) of the United States Trademark Act of 1946, as amended (the “Lanham Act”), 15 U.S.C. §§ 1125(d), 1125(c), 1114(1) and 1125(a), and trademark infringement under common law. GM based its claims on: (1) Defendant’s use of the Internet domain name CHEVYDUTY.COM; (2) Defendant’s use of the business and trade names “Chevy Duty” and “Chevy Duty, Inc.,” as well as Defendant’s logo, all of which allegedly incorporate GM’s trademark CHEVY®; (3) Defendant’s use of a logo that consists of a shape and other attributes that are essentially the same as GM’s CHEVROLET BOW TIE LOGO®; and (4) Defendant’s advertisement and sale of products and parts that allegedly bear counterfeits of GM’s trademarks CHEVY® and the CHEVROLET BOW TIE LOGO®.

In its Amended Complaint, GM sought, among other remedies, permanent injunctive relief and an award of GM’s attorneys’ fees and costs. Defendant Chevy Duty asserted a number of defenses, including the affirmative defense of laches and acquiescence.

The Court, having heard the evidence presented during a bench trial, and based on the Court’s statements on the record, now enters the following:

PERMANENT INJUNCTION

Defendant Chevy Duty, Inc., and its owner(s), shareholders, officers, directors, agents, employees, any purchasers or successors, and all persons in active concert or participation with Chevy Duty or any of them, shall be and are hereby ordered and permanently enjoined and restrained as set forth below:

1. Defendant is ordered, not later than March 30, 2006, to cease its use of “Chevy Duty” and “Chevy Duty, Inc.” and to select and begin using a new business name that does not incorporate the trademark “Chevy” or any other GM trademark. Notwithstanding the foregoing, Defendant may use the explanatory phrase “formerly known as Chevy Duty” to be presented with any new name selected by Defendant through and including September 30, 2006. The foregoing explanatory phrase shall not be larger or more prominent than the presentation of Defendant’s new name and must follow (and not precede) the presentation of Defendant’s new name. For the period allowed, the phrase “formerly known as Chevy Duty” may be used as set forth above in connection with any advertisements, catalogs, business forms, Internet website pages, or other promotional material of Defendant. Following the expiration of the period ending September 30, 2006, Defendant shall not use the phrase “formerly known as Chevy Duty.” GM shall not use or authorize the use of the term “Chevy Duty,” directly or indirectly.

2. Defendant is ordered, not later than June 30, 2006, to cease all uses of Defendant’s logo, which consists of a substantial copy of the CHEVROLET BOWTIE® shape

with the words “Chevy Duty” contained within that shape. Defendant is further ordered immediately to cease any other use of GM’s CHEVROLET BOWTIE® or any colorable imitation or confusingly similar version thereof within any logo, trademark, or business name. The restriction includes, but is not limited to, advertisements, signage, Internet website, promotional material (including without limitation caps and t-shirts), packaging, invoices, letterhead, business cards, or otherwise.

3. Defendant is ordered, not later than March 30, 2006, to transfer to GM the registration for the Internet domain name WWW.CHEVYDUTY.COM, and to cease using that Internet domain name. GM and Defendant are further ordered to cooperate and jointly select a date (not later than March 30, 2006) upon which GM shall “point” or otherwise direct any Internet traffic from WWW.CHEVYDUTY.COM to Defendant’s newly selected Internet domain name. GM shall maintain the “pointing” or re-direction of Internet traffic from WWW.CHEVYDUTY.COM to Defendant’s new domain name through and including September 30, 2006. GM shall after September 30, 2006, not use or authorize the use of the domain name, directly or indirectly.

The Court retains continuing authority and jurisdiction to enforce the terms of this Final Judgment and Permanent Injunction.

FINAL JUDGMENT

Judgment is hereby entered in favor of Plaintiff General Motors Corporation and against Defendant Chevy Duty, Inc. on Plaintiff's Amended Complaint. The relief granted to Plaintiff on each of its claims is as set forth in the Permanent Injunction above.

Each party shall bear its own attorneys' fees and costs.

SO ORDERED AND ADJUDGED.

Dated: January 19, 2006

s/ Avern Cohn
United States District Judge

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